

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MOLOKAI PUBLIC UTILITIES, INC.)
For Review and Approval of Rate)
Increases, Revised Rate Schedules,)
and Revised Rules.)

DOCKET NO. 2009-0048

ORDER DENYING MOLOKAI PUBLIC UTILITIES, INC.'S
REQUEST TO SUBMIT ITS UNAUDITED FINANCIAL
STATEMENTS IN LIEU OF AUDITED FINANCIAL STATEMENTS

FILED

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STATEMENTS IN LIEU OF AUDITED FINANCIAL STATEMENTS

By this Order, the commission denies MOLOKAI PUBLIC UTILITIES, INC.'s ("MPU") request to submit its unaudited financial statements in lieu of the audited financial statements required by Hawaii Administrative Rules ("HAR") § 6-61-75(b).¹ Accordingly, the commission dismisses MPU's Application, filed on March 2, 2009, without prejudice, as incomplete.² MPU shall re-file an amended application in this proceeding that is supported by audited financial statements and reflect any proposed rate increases from its permanent rates.

¹The Parties are MPU and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and HAR § 6-61-62(a).

²Application; Exhibits MPU 1 to MPU 11; Exhibit MPU-T-100; Verification; and Certificate of Service, filed on March 2, 2009 (collectively, "Application").

I.

Background

MPU is a public utility that provides water service in the Kaluakoi area on the island of Molokai. MPU presently provides potable and non-potable water to the Kaluakoi Resort, Ke Nani Kai and Paniolo Hale Condominiums, Kaluakoi Villas, Papohaku Ranchlands, Moana Makini subdivisions, and County of Maui parks. MPU is ultimately a wholly-owned subsidiary of Molokai Properties Limited, dba Molokai Ranch ("MPL").³

A.

Docket No. 2008-0115

In late March 2008, MPL announced its intent to cease all of its business operations on Molokai, and informed the commission that "due to the shutdown of MPL's other operations on Molokai, MPL would no longer be able to subsidize its utility companies, and it was planning for their disposal within six months."⁴ On June 16, 2008, the commission, on its own motion, instituted a proceeding, Docket No. 2008-0115, to provide any required temporary rate relief, via a temporary surcharge, for MPL's public utilities. On August 14, 2008, the commission,

³Specifically, "MPU is a wholly owned subsidiary of Kaluakoi Water, LLC, which is a wholly owned subsidiary of Kaluakoi Land, LLC, which is a wholly owned subsidiary of [MPL]." Application, Exhibit MPU 2, Schedule 2. In addition to MPU, MPL's public utility subsidiaries include Wai'ola O Molokai and MOSCO, INC.

⁴In re Molokai Public Util., Inc., Wai'ola O Molokai, Inc., and Mosco, Inc., Docket No. 2008-0115 ("Docket No. 2008-0115"), Order Instituting a Proceeding to Provide Temporary Rate Relief to Molokai Public Utilities, Inc., Wai'ola Molokai, Inc., and MOSCO, INC., filed on June 16, 2008, at 4.

on its own motion, approved a temporary increase in MPU's monthly water consumption charge, from \$3.18 per thousand gallons ("TG") to \$6.04 per TG, effective from September 1, 2008 to February 28, 2009.⁵ The commission subsequently extended MPU's temporary monthly water consumption charge of \$6.04 per TG until August 2009, or until the commission ruled on MPU's then forthcoming application for a general rate increase.⁶

B.

MPU's Application

On March 2, 2009, MPU timely filed its Application with the commission. By its Application, MPU seeks an increase in its revenues of \$562,550 (approximately 73.69 percent) over its present total revenue requirement of approximately \$763,408. The requested increase is based on an estimated total revenue requirement of \$1,325,958 for the July 1, 2009 to June 30, 2010 test year ("Test Year"), and a rate of return of two percent. MPU also requested that the unaudited financial statements, submitted as part of its Application, be accepted by the

⁵Docket No. 2008-0115, Order Approving Temporary Rate Relief for Molokai Public Utilities, Inc. and Wai'ola O Molokai Inc., filed on August 14, 2008. In addition, Ordering Paragraph No. 8 instructed MPU to file an application for a general rate increase within six months if a third-party was not found to take over MPU's system. Id., at 20.

⁶Docket No. 2008-0115, Order Approving Extension of Temporary Rate Relief and Request for an Extension to File General Rate Case Applications, filed on February 24, 2009. In addition, Ordering Paragraph No. 4 granted MPU's request for an extension of time, from February 17, 2009 to March 2, 2009, to file its application for a general rate increase. Id., at 7.

commission in lieu of the audited financial statements otherwise required by HAR § 6-61-75(b).

MPU proposes to implement the approximate 73.69 percent increase in its overall total revenue requirement for the Test Year in the following manner: (1) increase its monthly water consumption charge by approximately 72.1 percent over the temporary water consumption charge that has been in effect since September 2008, as a result of Docket No. 2008-0115; (2) increase its various monthly meter charges by approximately 68.9 percent to 73.3 percent, depending on the size of the meter; (3) increase its monthly private fire protection rates by approximately 70.7 percent to 73.3 percent; (4) increase its monthly water availability charge by approximately 73.3 percent; and (5) increase its monthly bulk water sales charge by approximately 91.2 percent. MPU proposes to implement the increase in rates and charges as part of a two-step phase-in for the purpose of mitigating the impact upon its customers; specifically, MPU proposes to implement a partial increase upon the commission's approval of the proposed increase in rates and charges, with the remaining increase to take effect six months thereafter.

As part of its Application, MPU also proposes to: (1) establish an Automatic Power Cost Adjustment Clause for its electricity expense; (2) establish a Purchased Fuel Adjustment Clause for the fuel component of its water costs; and (3) increase its deposit fee and reconnection fee by approximately 100 percent each.

In support of the requested increase in its rates and charges, MPU states that: (1) at present rates, it projects a Test Year net year operating loss of \$311,050, and a negative rate of return of 31.33 percent on its average depreciated rate base; and (2) its Application "is designed to eliminate these current ongoing losses and to allow [MPU] to earn a small return on its prudently incurred investments for utility assets providing service to its customers."⁷

On March 30, 2009, the Consumer Advocate belatedly filed its Statement of Position Regarding Completeness of Application.⁸

II.

Discussion

As a public utility with annual gross revenues of less than \$2 million, MPU filed its Application pursuant to HAR § 6-61-88 (general rate increase application filed by a public utility with annual gross revenues of less than \$2 million) and HRS § 269-16, specifically subsection (f). In brief, the commission must make every effort to issue its proposed decision and order within six months from the filing date of MPU's complete Application, "provided that all parties to

⁷Application, at 5.

⁸The Consumer Advocate, within twenty-one days following the receipt of an application for a rate increase, may object to the sufficiency of the application. See HRS § 269-16(d); see also HRS § 269-16(f)(3). The deadline for the Consumer Advocate to file any objections to the sufficiency of MPU's Application was March 23, 2009.

the proceeding strictly comply with the procedural schedule established by the commission and no person is permitted to intervene." HRS § 269-16(f)(3).

HAR chapter 6-61, subchapter 8, governs general rate increase applications filed by public utilities. HAR § 6-61-86 of subchapter 8 provides in respective part that a public utility requesting authority to change its rates or charges shall file: (1) an application; and (2) a financial statement under HAR § 6-61-75. HAR § 6-61-75(b), in turn, states in part:

(b) The financial statement submitted pursuant to section (a) shall be accompanied by:

- (1) An audited balance sheet, including any pertinent notations and explanations contained therein, as of the end of the last calendar year;
- (2) An income statement covering the period from the close of the last audited balance sheet up to the date of the latest available balance sheet attached to the application[.]

HAR § 6-61-75(b).

Concomitantly, HAR § 6-61-92 of subchapter 8 states that "[t]he commission may in its discretion modify the requirements of [subchapter 8], if the requirements of [subchapter 8] would impose a financial hardship on the applicant or be unjust or unreasonable." Moreover, HRS § 269-16(f) authorizes the commission to "amend its rules and procedures which will provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers." HRS § 269-16(f).

MPU's unaudited financial statements for the year ending June 30, 2008, and for the six-month period ending December 31, 2008, are attached as Exhibit MPU 2, Schedules 4 and 5 to its Application.

MPU requests that the commission accept the water utility's unaudited financial statements in lieu of the audited financial statements required by HAR § 6-61-75(b). In support thereto, MPU represents that as a small public utility with annual revenues of substantially less than \$2 million, it does not have audited financial reports, and to prepare an audited financial report will "delay the filing and . . . unjustly impose additional financial burdens on [MPU]."⁹ MPU also notes that "the Commission has previously waived the audited financial statement requirement for other similarly situated utilities."¹⁰

The lack of audited financial documentation by MPU was a legitimate cause for concern in Docket No. 2008-0115.¹¹ Nonetheless, in balancing the need for MPU to continue providing water service to its customers, without interruption, vs. MPU's potential cessation of water service in August 2008, in the absence of immediate, temporary rate relief, the commission "ha[d] no choice but to take the unprecedented step of ordering

⁹Application, at 14.

¹⁰Application, at 14.

¹¹See, e.g., Docket No. 2008-0115, Order Approving Extension of Temporary Rate Relief and Request for an Extension to File General Rate Case Applications, at 4 (County of Maui's position that it was unable to determine whether the commission would be justified in granting the motion to extend because the utilities did not file adequate, audited financial documentation).

temporary rate increases to ensure the continuation of water . . . services for the residents of West Molokai."¹² Now, as part of its Application, MPU proposes various increases in its water rates and charges, including an increase in its monthly water consumption charge by approximately 72.1 percent over the temporary water consumption charge that has been in effect since September 2008. MPU, moreover, proposes these various increases in its rates and charges in the absence of audited financial statements.

Under the circumstances, the commission finds that the completion and submission of audited financial statements is just, reasonable, and consistent with the public interest and the underlying intent of HAR § 6-61-75(b). The commission, thus, denies MPU's request to submit its unaudited financial statements in lieu of the audited financial statements required by HAR § 6-61-75(b). Accordingly, the commission dismisses MPU's Application, without prejudice, as incomplete.¹³ Consistent with HRS § 269-16(d), MPU shall re-file an amended application in this proceeding that is supported by audited financial statements as soon as reasonably possible. Until such time that MPU files its amended application, MPU shall file monthly reports that describe the status of its efforts to comply with the commission's requirement of completing and submitting audited financial

¹²Docket No. 2008-0115, Order Approving Temporary Rate Relief for Molokai Public Utilities, Inc. and Wai'ola O Molokai, Inc., at 19.

¹³On March 24, 2009, the Parties jointly submitted their proposed Stipulated Protective Order for the commission's review and approval. The commission will proceed with its review of the Parties' proposal.

statements. The first monthly status report shall be due on May 1, 2009.¹⁴

Lastly, MPU, by its Application, proposes to increase its monthly water consumption charge by approximately 72.1 percent over the temporary water consumption charge of \$6.04 per TG that has been in effect since September 2008, as a result of Docket No. 2008-0115. However, the rates approved by the commission in Docket No. 2008-0115 constitute a temporary stop-gap measure. Thus, MPU's utilization of the \$6.04 per TG rate as its base usage rate is misleading and improper. Accordingly, MPU's amended application, to be filed in this proceeding, shall reflect any proposed rate increases from its permanent rates approved by the commission in In re Molokai Public Util., Inc., Docket No. 02-0371 ("Docket No. 02-0371"), MPU's last rate case proceeding.

III.

Orders

THE COMMISSION ORDERS:

1. MPU's request to submit its unaudited financial statements in lieu of the audited financial statements required by HAR § 6-61-75(b) is denied.

2. MPU's Application, filed on March 2, 2009, is dismissed, without prejudice, as incomplete.

¹⁴The commission intends to schedule and hold the requisite public hearing on MPU's amended application on the island of Molokai, once such filing is deemed to be a complete application by the commission.

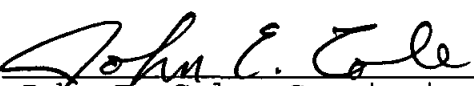
3. MPU shall re-file an amended application in this proceeding that is supported by audited financial statements. Until the amended application is filed, MPU shall file monthly status reports that describe the status of its efforts to comply with the commission's requirement of completing and submitting audited financial statements. The first monthly status report shall be due on May 1, 2009, with subsequent reports due on the first business day of each month thereafter. MPU shall serve a copy of its monthly status report upon the Consumer Advocate.

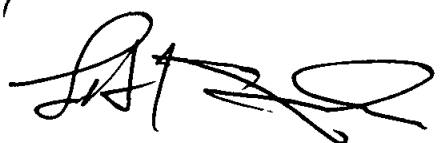
4. MPU's amended application, to be filed in this proceeding, shall reflect any proposed rate increases from its permanent rates approved by the commission in Docket No. 02-0371, MPU's last rate case proceeding.

DONE at Honolulu, Hawaii APR - 2 2009 .

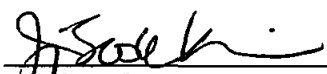
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


for Michael Azama
Commission Counsel

2009-0048.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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